

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

BRIEN PENNELL	:	
	:	
v.	:	C.A. No. 20-00116-WES
	:	
WARDEN DANIEL MARTIN, et al.	:	

MEMORANDUM AND ORDER

Defendants’ Motion to Strike Plaintiff’s Objection to their Motion to Dismiss has been referred to me for determination pursuant to 28 U.S.C. § 636(b)(1). (ECF No. 18). In their Motion, Defendants assert that Plaintiff’s Objection was written, signed and filed by fellow inmate and prolific pro se litigant Jason Boudreau in violation of Fed. R. Civ. P. 11 and caselaw that permits a party to appear in federal court only through counsel or pro se. The Court has thoroughly reviewed the arguments presented by both sides and DENIES the Motion to Strike for the reasons that follow.

In his Objection to the Motion to Strike (ECF No. 19), Plaintiff admits that Mr. Boudreau helped him draft the document and mailed the document for him, but Plaintiff states that he signed the document. Although the document was filed after Plaintiff was transferred from the Wyatt Detention Facility to the FCI-Fairton, the Court must take Plaintiff’s statements to the Court at face value. Plaintiff is reminded that, “[t]he federal courts have consistently permitted pro se inmates to ‘provide advice and assistance’ to one another on legal matters but have rejected attempts at third-party lay representation. By law an individual may appear in federal courts only pro se or through legal counsel.” Gladu v. Maine Dep’t of Corr., No. 1:18-CV-00268-GZS, 2018 WL 4693807, at *1 (D. Me. Oct. 1, 2018), report and recommendation adopted, No. 1:18-CV-

00268-GZS, 2018 WL 5023332 (D. Me. Oct. 16, 2018) quoting Herrera-Venegas v. Sanchez-Rivera, 681 F.2d 41, 42 (1st Cir. 1982). Accordingly, Plaintiff is permitted to seek assistance in drafting legal documents, but is not permitted to have another inmate act as his attorney and draft, sign and file a document on Plaintiff's behalf. Although the timeline and circumstances set forth by Defendants are plausible, Plaintiff has stated in his Court documents that he assisted in drafting the Objection and that he personally signed the document, accordingly, the Motion to Strike is DENIED.

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
July 10, 2020